(1)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

M. A.(c) No. 53 of 2007 Division Bench

APPELLANTS :1. Sadab Khan S/o Rustam Khan, aged about 9 years,
Claimants
2. Shoib Khan, S/o Rustam Khan, aged about 5 years,
Both are minors through their natural guardian Father Rustam Khan.
3. Rustam Khan S/o Mustafha Khan, aged about 38 years,
All by Caste Muslim,
R/o Shihava, Tahsil Nagri,
District Dhamtari (C.G.).

P.R. No. 136 of Khanedar
Presented by Shri D.P. Khanedar
dated 10/1/07

VERSUS

RESPONDENTS : 1. Shakeel Khan S/o Ramjan Khan, aged about 28 years,
Non-Claimants
R/o Hardibhatha Mainpur,
Tahsil Gariyaband, District Raipur (C.G.).
2. Mashih Khan S/o Majid Khan, aged about 38 years,
R/o Mouhdapara Raipur, Tahsil and District Raipur (C.G.).
3. Branch Manager,
National Insurance Company Limited,
Krishna Building, G.E. Road,
Raipur, Tahsil and District Raipur (C.G.).

(2)

(5)

APPEAL UNDER SECTION 173 OF MOTOR VEHICLE ACT

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 53 OF 2007

APPELLANTS Sadab Khan & Others

Versus

RESPONDENTS Shakeel Khan & Others

Present : Shri Sunil Sahu, counsel for the appellants.
None for the respondents.

ORAL ORDER
(Passed on 1st March, 2007)

The following oral order of the Court was passed by **Vijay Kumar Shrivastava, J.**

On 27-10-2004 Khalida Parveen (since deceased) while coming to village Sihava by jeep bearing registration No.CG-04-ZA-2214 (for short "the offending vehicle") the same turned turtle, due to which the deceased sustained injuries and succumbed to those on the spot. At that time the offending vehicle was driven by respondent No.1 in a rash and negligent manner, respondent No.2 is owner and respondent No.3 is insurer of the offending vehicle. Appellants/claimants, who are the legal representatives of the deceased, filed an application under Section 166 of the Motor Vehicles Act, 1988 (*for short "the Act, 1988"*) against all the respondents. Respondents contested the claim. Additional Motor Accident Claims Tribunal, Dhamtari (*for short "the Tribunal"*) after due enquiry passed the impugned award dated 11-12-2006 in claim case No.23/05 whereby allowed compensation in favour of the appellants as per the detail given below :

S.No.	Head	Amount
1.	Loss of dependency	1,80,000=00
2.	For consortium	10,000=00
3.	For funeral expenses	10,000=00
	TOTAL	**2,00,000=00**

Feeling aggrieved the appellants have filed this appeal under Section 173 of the Act, 1988 for enhancement of the compensation amount.

2) Learned counsel for the appellants contended that the award passed by the Tribunal is not just and reasonable.

3) We have gone through the award. Income of the deceased was not proved in accordance with the settled legal provisions. Tribunal meticulously considered the evidence adduced by the appellants to support income of the lady and held that appellants failed to prove her monthly regular income. Therefore, the Tribunal accepted notional income Rs.15,000/- per annum and after deducting 1/3rd and applying multiplier of 18 allowed loss of dependency Rs.1,80,000/-. Tribunal further sympathetically allowed amount as above towards other heads even more than the amount prescribed in the schedule. The amount awarded by the Tribunal is just and reasonable. We do not find any material to condemn the findings those are finding of facts recorded by the Tribunal.

4) The award passed by the Tribunal is neither perverse nor capricious. In the result, the appeal being devoid of substance deserves to be dismissed and is accordingly dismissed. No costs.

Sd/-
Chief Justice

Sd/-
V.K. Shrivastava
Judge